

**New Castle City Board of Adjustment Hearing
October 30, 2014, 6:30 p.m.
City of New Castle's Town Hall
2nd and Delaware Streets**

Present: Donald A. Reese, Mayor
Daniel R. Losco, City Solicitor
David J. Athey, City Engineer

City Personnel: Jeff Bergstrom, City Code Official

The hearing was called to order at 6:30 p.m.

Mr. Losco read the Notice of Public Hearing that states, "An application has been filed by St. Gabriel's Society, P.O. Box 27, New Castle, DE 19720, with the City of New Castle Board of Adjustment under Section 230-18 B.(3) of the City Zoning Code to expand the existing special exception for the private club located at 805 Tremont Street (also known as 802 Delaware Street and formerly known as Tax Parcel Number 21-014.00-299) so as to incorporate the lands and grounds (but not the existing dwelling house) comprising former Tax Parcel 21-014.00-300 (Tax Parcels 21-014.00-299 and 21.014.00-300 having been recently combined and are now known collectively as 21-014.00-300) for recreational purposes as part of the St. Gabriel's Society social club. The property is located in the Residential R-3 Zoning District.

For the purpose of considering this application, the Board of Adjustment will hold a Public Hearing on Thursday, October 30, 2014, at 6:30 p.m. in Old Town Hall, 2nd Floor, located at 2nd and Delaware Streets, New Castle, Delaware."

The property has been properly posted. An affidavit of publication was published in the *News Journal* and the *New Castle Weekly*.

(Kurt Weis was sworn in by Mr. Losco.)

Clifford B. Hearn, Jr., Esq., and Mr. Weis presented. St. Gabriel's Society recently bought 810 Delaware Street containing a small house. There is a tenant in the house. The tenant has the use of 20 feet off the back of the house. There are no plans to raze the house at this time.

Mr. Athey questioned how the "existing dwelling house" can be excluded in the application. Mr. Losco said they do not plan to use the house as part of their social club which explains why it is excluded. Mr. Athey asked if the special exception goes with the land then why exclude the house. Mr. Losco said a condition can be applied to the special exception grant that the house is excluded from the special exception use. He believes the house is an inappropriate structure for a social club.

Mr. Bergstrom described the house as very small with steep stairs. He could not give the applicant a certificate of occupancy for anything other than a single-family dwelling.

Asked about uses for the lands and grounds, Mr. Hearn said the club uses the area for activities. The house is a source of revenue and there are no plans to raze it at this time. There is a fence along the rear between the two parcels.

No improvements are planned for the rear portion of the property. The Board expressed some concern with children living in the home if another tenant moves in. The current tenant does not have children.

Mr. Athey asked if the neighbor had been informed of the applicant's request. There is a posting on the front of the house and is published in the newspaper. Neighbors do not receive notices according to Mr. Bergstrom.

If additional bocci courts or other recreational equipment were to be added to the new parcel, Mr. Athey asked if the applicant would need to apply before this Board again. Mr. Athey is concerned with the neighbor having a special exception next door. Mr. Bergstrom said there has never been anything separating the use of the club from the neighbor. If the applicant wants to install bocci courts, barbeque pit, or structure then setback lines would be enforced. Mayor Reese said that St. Gabriel's are good neighbors and have kept their property neat.

The floor was open to the public. Councilman Albert Vannucci spoke in favor of the application noting St. Gabriel's operates a good club and are involved with the community. There have never been any complaints against the club. No one spoke against the application.

The Board entered into deliberations.

Mr. Losco has no problem with expanding the use to the rear of the property. He supports making a condition that the house and 20 feet from the rear of the house is not to be used as part of the social club. A fence might be needed across the rear of the property. He asked Mr. Bergstrom if it would be necessary for the applicant to return to the Board of Adjustment to request an expansion of the special exception if any improvement (bocci court, brick oven, shed) is made in the future. Mr. Bergstrom said a building permit is required and taxes are paid. They would not be required to return to this Board. Supplemental district regulations require setbacks to control negative external impacts like noise, vapors, water and the like.

While recognizing there have been no complaints made against the applicant, Mr. Athey said it is unfortunate the applicant has not spoken to their neighbor.

Mr. Athey supports erecting a 20 foot fence otherwise recommendations are difficult to enforce. Any tenant moving into the house would be aware they are moving into a social club's property. Policing the recreational space would be the responsibility of the landlord. It would be good to have some space outside within 20 feet of the recreational space. The 20 foot of space in the rear of the house is part of the current lease.

Mr. Losco made a motion to grant the special exception with the condition that the structure and 20 feet to the back wall of the structure not be included within the special exception area. Mr. Athey seconded the motion. The motion was approved.

There being no further business, the hearing was adjourned.